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October 23, 2012

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Via Facsimile To: (914) 390-4278

**MEMO ENDORSED**

Hon. Cathy Seibel

US District Judge, So.

US District J

The Hon. Charles L. Brieant Jr. Federal Building a

300 Quarropas St.

White Plains, NY

Re: Marcelo Ottoli v. NTR Enterprises LLC and 1266 Pulasky Highway LLC  
Civil Action No. 11-CV-3896

Dear Judge Seibel:

The undersigned represents defendant, NTR Enterprises LLC. This letter is submitted after consultation with plaintiff's counsel, Matthew Maiorana of Queller, Fisher et al. pursuant to the Court's directive at the pre-motion conference held October 9, 2012. Please be advised that the parties have agreed to participate in a non-binding mediation before Magistrate Judge George Yanthis. However, defendant wishes to have its motion briefed first so that the parties and Magistrate Judge Yanthis have the benefit of the briefed motion for discussion at the mediation. The motion papers will not be e-filed unless and until the mediation proves unsuccessful. Based upon respective counsel's trial schedules, the parties have agreed to the following briefing schedule for defendants' motion for (1) summary judgment against the plaintiff; and (2) in the alternative, a bifurcated trial, with the issue of liability to be tried first and, if necessary, the issue of damages to be tried thereafter pursuant to FRCP 42(b):

Defendant to serve its motion no later than December 31<sup>st</sup>;  
Plaintiff to serve its opposition no later than January 31<sup>st</sup>;  
Defendant to serve its reply no later than February 21<sup>st</sup>.

USDC SDNY  
DOCUMENT  
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DATE FILED: 10/24/12

Application Granted / Denied  
So Ordered.

Cathy Sebil  
MUSD

Cathy Seibel, U.S.D.J.  
Dated: 10/24/12

SMITH, SOVIK, KENDRICK & SUGNET, P.C.

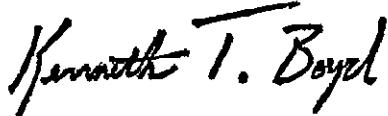
October 23, 2012

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Thank you for your consideration.

Respectfully submitted,

SMITH, SOVIK, KENDRICK & SUGNET, P.C.



Kenneth T. Boyd

KTB/

cc: Via Facsimile To: (212) 406-2313

Matthew Maiorana, Esq.  
Attorney for the Plaintiff

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## FAX TRANSMITTAL COVER SHEET

	<u>Fax Number</u>	
TO:	Hon. Cathy Seibel Matthew J. Maiorana, Esq.	914/390-4278 212/406-2313
FROM:	Kenneth T. Boyd, Esq.	315-474-6015
DATE:	October 23, 2012	
SUBJECT:	Ottone v. NTR Enterprises (Civil Action No. 7:11-CIV-3896-CS)	

Page 1 of 3 Client/Matter No.: 37838

Message:

If you have questions concerning the transmittal of this fax, please contact: Diane Devine at (315) 474-2911.

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